S. HRG. 98-1120

1984 OMNIBUS TERRITORIES

HEARING

BEFORE THE

SUBCOMMITTEE ON
ENERGY CONSERVATION AND SUPPLY

OF THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 5561

AN ACT TO ENHANCE THE ECONOMIC DEVELOPMENT OF GUAM, THE VIRGIN ISLANDS, AMERICAN SAMOA, THE NORTHERN MARIANA ISLANDS, AND FOR OTHER PURPOSES

JULY 26, 1984

Printed for the use of the
Committee on Energy and Natural Resources

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1984 OMNIBUS TERRITORIES

THURSDAY, JULY 26, 1984

U.S. SENATE,
SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room SD-366, Dirksen Office Building, Hon. Lowell P. Weicker, Jr., presiding.

Present: Senator Weicker.

Also prsent: James P. Beirne, counsel; D. Michael Harvey, chief counsel for the minority; and Craig Gannett, counsel for the minority.

OPENING STATEMENT OF HON. LOWELL P. WEICKER, JR., A U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator WEICKER. The hearing will come to order.

This hearing has been scheduled to consider H.R. 5561, legislation which includes a variety of provisions dealing with the territories of the United States. Although these provisions may be considered minor by those who take a broad view of national affairs, to those people who live in the territories of the United States this legislation can be, and indeed is, critically important.

We must be careful that their concerns in the territories and the needs of the territories are not overlooked.

I am glad to be with you today to take the opportunity to consider the particular needs of the territories, and I am particularly interested in any suggestions for changes or amendments which anyone may have. I would appreciate it if all witnesses would submit their formal statements for inclusion in the record and briefly summarize their positions. The subcommittee will be pleased to receive any additional material the witnesses feel would be helpful in the development of a complete record.

Our first witness is my good friend Congressman Won Pat. Congressman.

[The text of H.R. 5561 and departmental reports follow:]

98TH CONGRESS
2D SESSION

H. R. 5561

IN THE SENATE OF THE UNITED STATES

JULY 17, 1984
Received

JULY 23, 1984
Read twice and referred to the Committee on Energy and Natural Resources

AN ACT

To enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. There are authorized to be appropriated to the Secretary of the Interior $2,000,000 for each of fiscal years 1985, 1986, and 1987 for technical assistance (including but not limited to management, marketing, and finance) in developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

SEC. 102. The Secretary of the Interior is authorized and directed to report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than January 1 of fiscal years 1985, 1986, and 1987 on the executive branch's efforts regarding and recommendations for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

TITLE II

SEC. 201. Section 8(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 500, as amended, 48 U.S.C. 1574) is further amended by striking from the fourth sentence of clause (i) the words "shall be sold at public sale and" and by inserting at the end thereof the following new clause:

"(iii) Effective October 1, 1984, the government of the Virgin Islands may cause to be issued industrial development bonds which shall be exempt, as to principal and interest, from taxation by the United States, or by any State, territory, or possession of the United States or any political subdivision of any of them."

SEC. 202. Effective October 1, 1984, the government of American Samoa may cause to be issued industrial development bonds which shall be exempt, as to principal and interest, from taxation by the United States, or by any State,

territory, or possession of the United States or any political subdivision of any of them.

SEC. 203. Section 11 of the Organic Act of Guam (64 Stat. 387, 48 U.S.C. 1423a), as amended, is amended by inserting, immediately before the sentence that begins with the words "Should the Guam Power Authority fail to pay", the following language: "At the request of the Board of Directors of the Guam Power Authority for a second refinancing agreement, the Secretary may guarantee for purchase by the Federal Financing Bank, on or before December 31, 1984, obligations of the Guam Power Authority that shall—

"(a) carry on annual simple interest rate of 7 per centum,

"(b) be paid in equal semiannual installments of principal and interest,

"(c) mature no later than December 31, 2004, and

"(d) contain no prepayment penalty,

and the Federal Financing Bank shall purchase such Guam Power Authority obligations if such Guam Power Authority obligations are issued to refinance the principal amount scheduled to mature on December 31, 1990, with no repurchase payments required in the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank. Should such second financing occur,

the Board of Directors of the Guam Power Authority shall establish rates sufficient to satisfy all financial obligations of the Guam Power Authority that shall be consistent with generally accepted ratemaking practices of public utilities, as determined pursuant to local law. There are authorized to be appropriated to the Secretary of the Treasury for payment to the Federal Financing Bank such sums as are necessary to compensate the Federal Financing Bank for (1) the interest rate differential between the 7 per centum to be paid by the Guam Power Authority under the second refinancing agreement and the interest rate that would otherwise be determined in accordance with the above cited section 6 of the Federal Financing Bank Act, and (2) the repurchase payments required under the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank.".

TITLE III

SEC. 301. Title 46, United States Code, is amended—

(a) in Section 2101 add a new paragraph (3a) to read as follows: "(3a) 'citizen of the United States' means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or a citizen of the Northern Mariana Islands.";

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(b) in section 12106 add the following at the end: "(c) A coastwise license to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

"(1) is less than two hundred gross tons;

"(2) was not built in the United States;

"(3) is eligible for documentation; and

"(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade."; and

(c) in section 12108 add the following at the end: "(c) A fishery license to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

"(1) is less than two hundred gross tons;

"(2) was not built in the United States;

"(3) is eligible for documentation; and

"(4) otherwise qualified under the laws of the United States to be employed in the fisheries trade.".

TITLE IV

SEC. 401. To further the rehabilitation, upgrading, and construction of public facilities in the territories of the United States—

(a) section 1(a)(1) of the Act of August 18, 1978 (92 Stat. 487), as amended, is further amended by adding "$9,600,000 in fiscal year 1986," before the words "such sums";

(b)(1) there are authorized to be appropriated $600,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior who, in consultation with and with assistance of the Secretary of Transportation, shall use said funds exclusively for the planning improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands; and

(2) section 303 of the Act of October 19, 1982 (96 Stat. 1705), as amended, is further amended by inserting after "water and power" the words "and improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands".

(c) the Secretary of the Interior is authorized and directed, in consultation with and with the assistance of the Secretary of Housing and Urban Development, to study the desirability and feasibility of initiating a program for the development of housing in American

Samoa and including the territory in existing Federal housing programs and to submit such recommendations as he may deem appropriate to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of the United States within one year of the date of enactment of this Act.

(d) there are authorized to be appropriated $2,000,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior for grants to the government of Northern Mariana Islands for the improvements in the production and distribution of water.

TITLE V

SEC. 501. There is hereby conveyed, without consideration, to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to Parcel No. 9F, Estate Hospital Ground, No. 9 New Quarter, St. Thomas, Virgin Islands (known as Ebenezer Home), and improvements thereof.

SEC. 502. Section 11 of the Revised Organic Act of the Virgin Islands, as amended, is further amended by striking the words "St. Croix, free of rent" and inserting in lieu thereof "Saint Croix, which house, together with land appur-

tenant thereto is also transferred to the government of the Virgin Islands".

TITLE VI

SEC. 601. To rationalize the application of certain statutes so that the development of the territories of the United States is facilitated—

(a) section 1013 of the Act of November 10, 1978 (92 Stat. 3467) is amended by deleting "subsection" and inserting in lieu thereof "section";

(b) section 501(d) of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes." (91 Stat. 1159), as amended, is further amended by deleting "Samoa" where it appears and inserting in lieu thereof "Samoa, Guam, the Virgin Islands,";

(c) section 119(n)(1) of the Act of August 22, 1974 (88 Stat. 633), as amended, is further amended by deleting "Guam" and inserting in lieu thereof "Guam, American Samoa, the Northern Mariana Islands";

(d) section 17(a) of the Act of April 27, 1935 (49 Stat. 163), as amended, is further amended by deleting "Puerto Rico, and the Virgin Islands" and "Puerto Rico and the Virgin Islands" and inserting in lieu

thereof "Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands"; and

(e) the Act of December 22, 1975 (89 Stat. 871), as amended, is amended by deleting "Samoa" in Sections 391(a) and 398(b) and inserting in lieu thereof "Samoa, the Northern Mariana Islands".

SEC. 602. (a) Section 501(d) of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes." (91 Stat. 1159), as amended, is further amended by inserting "or otherwise modify" immediately after "(i) waive" and before "any requirement" and by inserting "or maintenance of effort requirements" immediately after "matching funds" and before "otherwise"; and

(b) Notwithstanding any provision of law to the contrary, the Administrator of the Environmental Protection Agency may award grants to American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands, from any funds made available to him for construction of sewerage facilities. Such facilities may include, but are not limited to, intercepting sewers, outfall sewers, sewage collection systems, individual systems, pumping, power, sewage treatment systems; extensions, improvements, remodeling, additions and alter-

ations thereof and any other equipment and appurtenances that the Administrator deems necessary for the operation of the facilities. The Administrator may award grants for these facilities irrespective of any other provisions of law to the contrary and may also modify or remove other limitations and conditions on grant eligibility set forth in law, upon determining that such limitations would lessen the effectiveness of the facilities in assuring attainment and maintenance of water quality and the protection of public health in American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Virgin Islands, and the Trust Territory of the Pacific Islands.

SEC. 603. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 497), as amended, is further amended by striking the word "eight" in the first sentence and inserting in lieu thereof "ten". This amendment shall apply to all judges of the District Court of the Virgin Islands who are in office as of the effective date of this Act.

(b) Section 24 of the Organic Act of Guam (64 Stat. 384), as amended, is further amended by substituting in first paragraph of subsection (a) the word "ten" for "eight".

SEC. 604. (a) Any judge or former judge who is receiving payments pursuant to section 373 of title 28, United States Code may elect to become a senior judge of the court on which he served while on active duty.

(b) The Chief Judge of the Third Judicial Circuit may recall any such senior judge of his circuit, with the judge's consent, to perform in the District Court of the Virgin Islands such judicial duties and for such periods of time as the Chief Judge may specify.

(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

(e) Senior judges under subsection (a) of this section shall at all times be governed by the Code of judicial conduct for United States judges, approved by the Judicial Conference of the United States.

(f) Any person who has elected to be a senior judge under subsection (a) of this section and who thereafter—

(1) accepts civil office or employment under the Government of the United States (other than the per-

formance of judicial duties pursuant to subsection (b) of this section;

(2) engages in the practice of law; or

(3) materially violates the Code of judicial conduct for United States judges;

shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section.

(g) Section 24 of the Organic Act of Guam (64 Stat. 384), as amended, is further amended in the second paragraph of subsection (a) by—

(1) inserting between "ninth circuit," and "or" the words "or a recalled senior judge of the District Court of Guam or of the District Court of the Northern Mariana Islands";

(2) by striking the words "or a judge of the High Court of the Trust Territory of the Pacific Islands"; and

(3) by substituting the words "a local court of record" for the "Island Court of Guam".

Passed the House of Representatives June 28, 1984.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

40-501 O - 84 - 3

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES

RECEIVED
JUL 26 1984

July 26, 1984

Dear Mr. Chairman:

This is in response to your request for the Treasury Department's views on H.R. 5561, a bill "To enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands and for other purposes," as passed by the House. The Department is reviewing sections 201 and 202 of the bill in light of the recent tax legislation and will present its views on these sections in a separate letter.

Section 203 of the bill would provide for the refinancing of certain obligations of the Guam Power Authority which are guaranteed by the Secretary of the Interior and held by the Federal Financing Bank. The bill would specify that the refinancing notes carry an annual simple interest rate of 7 percent, and contain no prepayment penalty. The Federal Financing Bank (FFB) would be required to purchase such obligations, and prohibited from collecting repurchase payments required under the existing note from the Authority to the FFB. Appropriations would be authorized to the Secretary of the Treasury to compensate the FFB for the interest differential between the 7 percent rate specified in the bill and the rate which would otherwise be charged and for forgoing the premium that would be charged if Guam prepaid its outstanding obligations, which bear higher than current market interest rates. The Department strongly opposes these provisions.

The FFB follows a uniform policy of offering credit on the same terms and conditions to all eligible borrowers. Consistent with this policy, the FFB should not be directed to provide credit on more favorable terms to any particular borrower or class of borrowers, and the Administration is opposed to providing subsidized credit to the Guam Power Authority. If the Congress determines that the Guam Power Authority should not bear the cost of any repurchase payments, the legislation should authorize appropriations to the guarantee agency -- in this case the Secretary of the Interior -- in amounts sufficient to cover the cost of repurchase payments under the existing note and proposed refinancing obligations. The Department of the Interior is proposing an amendment to section 203 that will achieve this result.

The repurchase (or prepayment) clause in the Guam Power Authority (GPA) note with FFB reflects standard FFB policy, the purpose of which is to assure that at the time any loan is made the borrower and FFB assume equal positions of risk regarding future movements in interest rates. When the FFB receives a prepayment, it prepays its borrowing from the Treasury, and Treasury in turn theoretically could buy back obligations that it issued in the market to finance the loan, all at prevailing prices that reflect current market values of the obligations. The GPA note obligates FFB to supply GPA with the funds until December 31, 1990. If GPA wants to repay the FFB earlier, it must pay an amount equal to the current market value of the obligations held by FFB. On July 25, 1984, when the prevailing market rate for Treasury obligations with payment streams comparable to the GPA notes was 13.30 percent, FFB would have charged GPA a price of $37.4 million to buy back the $36 million principal amount of outstanding 14.255 percent GPA obligations, plus accrued interest to the date of prepayment.

The language in section 203 which would permit GPA to prepay the principal amount at par thus would have a direct cost to FFB and the Treasury of $1.4 million. Requiring FFB to absorb this cost would provide special treatment for GPA outside of the normal appropriations process and would set a dangerous precedent for similar treatment for other loans held by FFB. Widespread legislative waivers of standard FFB market prepayment provisions on the approximately $140 billion of loans in the FFB portfolio could result in losses to FFB and Treasury in the billions of dollars.

In view of the foregoing, the Treasury Department opposes section 203 of the bill, as passed by the House.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely,

Thomas J. Healey
Assistant Secretary
(Domestic Finance)

The Honorable
James A. McClure, Chairman
Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

U.S. Department of Justice

Office of Legislative and Intergovernmental Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
RECEIVED
JUL 26 1984

July 26, 1984

Honorable Lowell P. Weicker, Jr.
Chairman
Subcommittee on Energy Conservation
and Supply
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This letter responds to your request for the views of the Department of Justice on H.R. 5561, a bill to enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands and for other purposes. While your letter of July 24, 1984 requested a Department witness to appear at the Subcommittee's July 25, 1984 hearing on this issue, we have been advised by the Subcommittee staff that a written response will suffice.

We generally defer to the views of the Department of the Interior on H.R. 5561. With respect to §§ 603 and 604, however, we submit the following additional observations. Section 603 would extend the terms of the district judges of the district courts of Guam and the Virgin Islands from eight to ten years and would provide specifically that this extension of the term shall apply to the district judges in the Virgin Islands who are in office on the effective date of the Act. The bill thus would not extend the term of the district judge in the Northern Mariana Islands, and the extension of the terms to incumbent judges would be limited to the Virgin Islands.

Paragraphs (a) through (f) of § 604 would enable territorial judges entitled to retirement pay to become senior judges and to perform judicial duties analogous to those of senior judges of Article III courts. For no apparent reason, however, the relevant text of § 604(b) would be limited to the Virgin Islands, making it questionable how § 604 generally would operate on Guam or in the Northern Mariana Islands.

Subparagraphs (1) through (3) of § 604(g) would make certain changes relating to the District Court of Guam. The amendment in § 604(g)(1) providing for the service of a recalled senior territorial judge is limited to Guam; there is no analogous provision for the Virgin Islands and the Northern Mariana Islands.

The Department of Justice opposes this piecemeal approach to reform of the territorial courts. Comprehensive legislation is available as the result of the initiative and interest of the Subcommittee. Thus we already have a bill dealing with the problems that now face all three territorial courts. That legislation has been developed over the past several years, first introduced as S. 2729 in the 97th Congress and is now S. 1366, 98th Congress. Last fall the Subcommittee held hearings on S. 1366. Hearings also were held on this legislation by the Committee on Pacific Territories of the Judicial Conference on Guam and the Northern Mariana Islands. S. 1366 has been revised on the basis of those hearings and of many other suggestions received from the bench and bar.

Sections 603 and 604 of H.R. 5561 on the other hand embody only a miniscule part of the comprehensive revision provided for in S. 1366, and, as we have shown, even those provisions apply in a haphazard manner to some but not to all of the territorial courts.

The Department of Justice supports the systematically and carefully drafted S. 1366. It strongly recommends that it be substituted for §§ 603 and 604 and that it be enacted as soon as possible, so that the Territories may benefit at an early date of the many worthwhile reforms it contains.

While the Department of Justice does not favor § 405 of S. 1366, which would render the extension of the terms of territorial judges from eight to ten years applicable to incumbent judges, the explanation of § 405 indicates that the section represents the practice, rarely departed from, of not replacing a territorial judge before he becomes entitled to retirement benefits.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

Robert A. McConnell
Assistant Attorney General

STATEMENT OF HON. ANTONIO BORJA WON PAT, DELEGATE FROM GUAM

Mr. WON PAT. Greetings, Mr. Chairman. First of all, let me thank you for making this hearing possible. I recognize the essence of time particularly upon yourself, and recognizing that you have some other appointments this morning, I will make my statement very brief.

My statement is essentially general and also I will be available for any questions that you may wish to ask, sir. My primary purpose in appearing is to simply stress the importance of expeditious Senate action of this legislation. Thus, I want to thank you, Mr. Chairman, for your prompt attention to this matter.

I state this not only as the Delegate of the territory of Guam and chairman of the Subcommittee on Insular Affairs of the territory, I said it because of the endorsement of my subcommittee's ranking Republican, Robert Lagomarsino, and also the ranking Republican member, Manuel Lujan, as well. They both support this bill.

As a matter of fact, we never had any problems on the floor with this bill, sir. So without further going into the details of the bill, why I would just rather listen to whatever questions anybody wishes to raise. Otherwise, I urge your expeditious consideration of this legislation.

[The prepared statement of Mr. Won Pat follows:]

STATEMENT OF THE HON. ANTONIO B. WON PAT,
CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON INSULAR AFFAIRS
ON H.R. 5561, JULY 26, 1984, BEFORE
THE SENATE SUBCOMMITEE ON ENERGY CONSERVATION AND SUPPLY

Mr. Chairman, I have a brief, and essentially general, oral statement to make. I am also available to answer any questions which might facilitate Senate consideration, either in this hearing or later.

My primary purpose in appearing is to simply stress the importance of expeditious Senate approval of this carefully constructed and important legislation. Thus, I want to thank you, Mr. Chairman, for your prompt attention to this bill.

I state this not only as the Delegate of Guam but as Chairman of the House subcommittee with jurisdiction over the territories. And I state it with the endorsement of my subcommittee's Ranking Republican, Bob Lagomarsino, and our full committee Chairman, Mo Udall, and Ranking Republican, Manuel Lujan, as well.

As it considers this bill, I hope that the Senate is aware of the consensus of views of the House that H.R. 5561 represents.

This bill to help develop territorial economies by providing necessary assistance and removing unnecessary statutory impediments to growth is based on both requests of the insular areas and the administration. As I have indicated, it has received solid bipartisan support in the House.

This latest of our annual insular areas assistance bills has also received perhaps more scrutiny than any of its predecessors in the House. It was modified to accommodate concerns of the Budget, Ways and Means, and Merchant Marine and Fisheries Committees as well as the Interior and Insular Affairs Committee, territorial leaders and administration officials. As many differences as possible have been resolved through fair compromise.

While my detailed comments are contained in my statement just prior to House passage, let me address concerns I have heard since House passage.

First, I know that Interior officials feel strongly that the authorization for refinancing of the Guam Power Authority indebtedness should be amended to provide for federal oversight of rate-setting. However, I would argue that the bill already goes far enough in requiring locally-set rates adequate to meet the utility's obligations. Additional requirements can be added by agreement of Guam and Interior in the refinancing agreement.

Second, I recognize the concerns Senate tax-writers may have about the authorization for industrial development bonds for American Samoa and the Virgin Islands. However, I want to reiterate that this language represents an agreement with the Ways and Means Committee. I also want to point out that: it is fully within the jurisdiction of our committee; full bonding authority is

vitally-needed; and, now that the tax bill has become law, our language probably should be modified to resolve bond issues raised there for all the territories.

Third, I understand that some believe the authorization for technical assistance funds for private sector development projects and the directives for reports on administration efforts in this area and federal housing assistance for American Samoa are superfluous. However, the frustration of those in the territories with the past record of the executive branch fully justifies these provisions.

Finally, I want to suggest that this bill be used as a vehicle for passage of provisions of S. 1366, as they would be amended by agreements worked out by our staffs. This landmark reform of the federal-territorial judicial relationship should become law this year.

Let me close by saying that I look forward to continuing to work with you for the passage of a 1984 omnibus territories bill that will make a real contribution to territorial Americans. Thank you.

40-501 O - 84 - 4

Senator WEICKER. Thank you very much, Congressman, and you are certainly welcome to not only listen but when you get through with your testimony and Congressman de Lugo is through with his, if you would like to sit up here and listen to what the administration has to say, you are more than welcome to do so.

As far as the expeditious portion of it is concerned, I am informed by counsel that the full committee markup is next Wednesday. I expect we will be able to get it through the full committee markup at that time. I do not see any reason why the legislation should not be out of the Congress by the time we adjourn in the course of this recess.

Mr. WON PAT. I thank you very much, sir.

Senator WEICKER. Thank you. Your testimony in its entirety will be included in the record at this point.

Congressman de Lugo.

STATEMENT OF HON. RON DE LUGO, DELEGATE FROM THE VIRGIN ISLANDS

Mr. DE LUGO. Thank you very much, Mr. Chairman. I also am going to be very brief. I ask that my prepared statement be made a part of the record. And I will address myself only to amendments that I would request be made to the House-passed bill. First of all, I would like to address myself to the IDB's.

Under the tax bill that was passed, they placed a $150 cap on the IDB's for the territories and that would just about make it useless for us. For instance, we want to use the IDB's to privitize, and this is something I understood that Interior also wanted to see. We would like to use the IDB's, for instance, to take care of the problem we have got with solid waste. To raise the money for the solid waste plants, those plants will cost about some $40 million and with the limit that is placed under the tax bill on the IDB's, we would actually have to issue three separate bond issues. Of course, with that you face the increase debt service charges and it is spread out over a much longer period.

The ceiling that was placed on the IDB's in the tax bill of $150 per capita means that you could only—that is a ceiling of $15 million for the Virgin Islands or Guam, a ceiling of $4.8 for American Samoa, a ceiling of $2.4 for the Northern Mariana Islands. It is better not to do anything than to do something like that. I would request that your committee correct this.

I request that a cap of $200 million for all of the territories be placed. Thus, there would be $50 million cap for Guam, the Virgin Islands, the Northern Marianas, and the American Samoa. With this, these territories can proceed to develop themselves and take care of their problems.

Also, I would request that you clarify the House language that the above amendment that I seek will supersede the tax bill, because in the tax bill, they have limited the IDB's to only 3 years and this is a little case of using some muscle on us. You will recall that you wanted hearings on the myriad tax revisions that we seek for the Virgin Islands, and so do we. But there were those in the administration that just wanted it stuck onto the tax bill and they

were a little unhappy that we did not agree with that and, therefore, they have limited this to 3 years. It is a little muscle.

We have a problem in St. Thomas, and I think here again I would like to turn to you for help. As you know the harbor of St. Thomas, and you are very much into this sort of thing, the harbor of St. Thomas is one of the most beautiful anywhere in the world. We have a Danish company that at the present time is attempting to invoke some provisions of the 1917 treaty to dredge the harbor some 26 acres and create some 7½ acres of fill in the area called Long Bay, which is on the way toward the West Indian Co. dock.

Actually, it is right in front of a housing project where our people live and I can just see this filled in with three-story buildings and we are very concerned about the environmental impact on this. So I am requesting an amendment that would require an environmental impact analysis and congressional approval of this project, because this is a project that once it is undertaken there is no turning back. And the impact will be just incredible on the island of St. Thomas and on its people.

Senator WEICKER. I do not understand when you say invoke the provisions of the 1917 treaty. Do the Danes have some property interest that is maintained to this day?

Mr. DE LUGO. Yes; under the 1917 treaty, as you will recall, when the islands were bought from Denmark, there were, some provisions were placed in that treaty and one of the provisions was, there were very close ties, of course, between the Danish private sector and the Danish Government, and there were provisions in the treaty that would allow this Danish company to create land in the harbor. Of course, this is back in 1917 before anyone had any real appreciation for environmental impact or any of that.

And the Danish company did not move expeditiously on it and only recently has decided since it has become economically very attractive to pursue this matter and so there is a real question as to whether with the passage of time, whether this can still stand up or not. Nevertheless, they are proceeding unless we——

Senator WEICKER. Do they own the adjoining property to the offshore land?

Mr. DE LUGO. Yes, they do. Not all of it.

Senator WEICKER. Private Danish interests own the land adjoining the offshore land that they are going to——

Mr. DE LUGO. Some of it, they own some of it, Mr. Chairman, but not all of it.

Senator WEICKER. Why aren't they as property owners subjected to the same laws that all of the rest of the property owners are in the Virgin Islands? Is not any project such as that subject to an environmental impact statement? As I understand on the island of St. Croix right now, the foreign developers who have bought land from Americans are having a difficult time because of——

Mr. DE LUGO. It is my understanding, Mr. Chairman, that under the treaty, the treaty gave them virtually carte blanche and that is exactly what the argument is. The Danes claim that they have this right, that they can proceed under the 1917 treaty and we feel that the Virgin Islands Government, because of the powers of the Virgin Island Government to protect its own harbor and because of

the Federal law that has been enacted since that date, that we should move to——

Senator WEICKER. Has the Virgin Islands Government taken this matter to court?

Mr. DE LUGO. No; the Virgin Islands Government has not taken this matter to court and quite frankly the Virgin Islands Government hasn't taken a very forceful position on it. The Virgin Islands Government has basically taken the position that it is bound by this treaty.

Senator WEICKER. All I am trying to say, I suppose, is that this is obviously a very intricate matter.

Mr. DE LUGO. Yes, it is.

Senator WEICKER. And I am just wondering, I gather both as far as you are concerned and Congressman Won Pat and the rest of you that you want expeditious handling of this matter before us. I am wondering whether we are going to be able to give this the scrutiny it deserves and get this bill out within the timeframe of your desires.

Mr. DE LUGO. I think what I am asking to do is to buy a little time on this matter, because I am afraid that permits will be issued by the time we come back in the next Congress.

Senator WEICKER. I think certainly the committee can make its investigation and work with the appropriate authorities. Now, as to where we stand on the legal matter, that is something that it seems to me that we need an interpretation from the State Department, the Justice Department, et cetera. But I do not think I want to hold up this bill because of that matter, although I recognize what it is that you are saying.

I am more than willing to have the committee on its initiative initiate the necessary inquiries and make the necessary requests. It seems to me certainly that U.S. law, as it relates to environmental impact statements, et cetera, has to be applicable. Otherwise somebody could go ahead and raise a radio tower right on the approach to St. Thomas Airport if it sits on a piece of Danish filled-in land and I do not understand that.

Mr. DE LUGO. Perhaps we will be able to work with your staff and work something out that will not jeopardize the bill.

Senator WEICKER. I will instruct staff that I would like to hear about this matter further and any way that we can be of assistance to you, to the Government, we will be glad to do so. I would rather doubt that this is going to be accomplished within the framework of this particular piece of legislation.

Mr. DE LUGO. Finally, Mr. Chairman, I understand that you are contemplating adding to H.R. 5561 the courts bill for the territories and I would like to request on that that the language that I have included in the House bill be included and that is regarding the terms of the Virgin Islands' district court judges, that that be made applicable to sitting judges as per the language in section 603 of H.R. 5561.

I would also say, I have serious reservations regarding the controversy caused by the local appellate court provisions of the Virgin Islands that is in your bill. In fact, I had intended to seek an amendment requiring a local referendum on this issue. But I do, however, consider it important to avoid unnecessarily limiting the

autonomy of the territories. I therefore am not seeking that. What I will do is I will urge the Virgin Islands' Legislature to take up the question of the appellate court by referendum. I will urge them to do that rather than for us to impose that on them.

With that I would like to thank you for your courtesy.

[The prepared statement of Mr. de Lugo follows:]

STATEMENT SUBMITTED BY RON DE LUGO

VIRGIN ISLANDS DELEGATE TO CONGRESS

BEFORE

THE SENATE ENERGY SUBCOMMITTEE

ON ENERGY CONSERVATION AND SUPPLY

July 26, 1984

The Virgin Islands has, through recent tax legislation, lost an opportunity to access funds needed for capital improvement plans which would have been available through increased excise tax returns. I do hope that, by working with this Subcommittee, we can again receive the full return of the equalizing tax placed on Virgin Islands products.

My intention in this statement is to touch on several of the items in H.R. 5561 which are of most concern to the Virgin Islands. I will be pleased to respond, in this hearing or for the record, to any questions you may have regarding H.R. 5561 as it affects the Virgin Islands.

The bill proposes to make funding available for the extension of the St. Croix airport by adding this project to the authority already existing under P.L. 97-357 for water and power. The

provision's budget impact, therefore, is neutral. It would make a total of $9 million available for the St. Croix airport extension project, the estimated cost of which is $10 million.

The St. Croix airport is the only airport in the Virgin Islands capable of being extended to accommodate commercial aircraft loaded for long distance flight. The importance of such capability is what has lead the United States to complete the airport on Grenada. Grenada has to have access to the European, South American, the Western and Midwestern United States tourist markets as well as the closer U.S. East Coast market, if it is to survive economically. This country has recognized that tourism is the essence of Grenada's economic future, and has committed to helping the island nation. The Virgin Islands is also primarily a tourist economy and needs the same access to long distance markets to be competitive.

The Virgin Islands proposes to extend the existing 7,600 foot runway on St. Croix to 10,000 feet. This extension will allow the Virgin Islands to accommodate the large commercial jets, such as the 727, 757, 767, DC-10 and L10-11, when loaded for long distance flight. Our inability to handle such departures effectively cuts us out of the important tourist markets noted in reference to Grenada.

The tax bill which the President signed into law on the eighteenth of the month, P.L. 98-369, authorizes the issuance of Industrial Development Bonds (IDB's) by the Virgin Islands and American Samoa, for three years, subject to a $150 per capita cap. The language in the tax bill does not address the issue of state and local taxation of IDB's issued by the Virgin Islands and American Samoa.

Under the tax bill, no state or possession other than American Samoa and the Virgin Islands is limited with regard to the duration of its authority to issue IDB's. With regard to the per capita cap, all states are given a minimum of $200 million in IDB authority; the territories are precluded from this minimum. Instead, the Virgin Islands and Guam face a $15 million cap, and American Samoa is capped at $4.8 million per year, while the Northern Mariana Islands can only issue $2.4 million in IDB's.

The Department of Interior has consistently discussed its intention to help the territories privitize various activities which government would otherwise manage. Such an activity is solid waste treatment, a job which the Virgin Islands intends to offer to private industry. No private firm can reasonably finance the two solid waste treatment plants needed without IDB's. The cost of the two solid waste treatment plants is

approximately $40 million. Under the current IDB limitations, the Virgin Islands would have to generate three separate bond issues over a three year period. The debt service and protracted time period would raise the overall cost of the project. Furthermore, this would be the territory's only IDB issue, since the authority is limited to three years. Given other jurisdictions' access to IDB's as an industrial development tool, this current limitation on the Virgin Islands and American Samoa is unfounded, and clearly inconsistent with the Administration's averred interest in privitization.

Furthermore, these limitations on our ability to issue IDB's are perplexing in their affront to Congress' stated interest in helping the territories achieve economic self sufficiency comparable to that of the states.

I ask that the Committee pass the House language, which authorizes issuance of IDB's within the appropriate context and without any arbitrary and discriminatory time limit on the period during which this authority would apply. With regard to a cap for the territories, I propose a $200 million per year cap, the minimum IDB cap for the smallest state, to be evenly divided among Guam, American Samoa, the Northern Mariana Islands and the Virgin Islands. Thus, each territory would be subject to a $50

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million per year limitation on its ability to issue IDB's.

I also ask that you amend the House bill to make it clear that its IDB language is intended to supersede the tax bill. This final item would make it clear that American Samoa and the Virgin Islands can issue IDB's indefinitely, that this authority precludes state and local taxation and precludes federal taxation subject to the limitations placed on other jurisdictions by the tax code. It would also set a new cap for territorial IDB issues, if this Subcommittee accepts my proposal for the cap.

There is another item which does not appear in H.R. 5561 and which I ask this Subcommittee to include as an amendment to the bill. The West Indies Bay Company is preparing to assert a prerogative granted under the Transfer Treaty between the United States and Denmark back in 1917 by dredging and filling in seven and a half acres at one of the basin points of the St. Thomas harbour. I am gravely concerned about the effect of this proposal on the ecological balance of the harbour. The proposed dredge and fill will harm marine life, navigation and the value of the Virgin Islands main tourist attraction: the St. Thomas harbour.

I believe that careful analysis of the environmental impact

of this proposal should be undertaken. Apart from the effect on marine life, an analysis of the hydraulic effect of increased wave action in the harbour caused by fortifying the landfill with bulkheads is imperative.

I therefore ask that you amend H.R. 5561 to require a comprehensive environmental impact study of this extensive dredge and fill project and Congressional approval of the project prior to its undertaking.

There are a number of other provisions in the H.R. 5561, which I urge this Subcommittee to approve. The transfer of ownership of Government House on St. Croix is an extension of Congress' earlier decision to transfer ownership of the St. Thomas Government House to the people of the Virgin Islands. As the center of Government activities on St. Croix, it is appropriate to transfer ownership of Government House to the territory. The provision regarding the Ebenezer Home property simply clears a cloud on the Lutheran Church title to that property caused by the language of the previously mentioned 1917 treaty between Denmark and the United States.

The extension to the Virgin Islands and Guam of the waiver of matching fund payments up to $200,000 under federal grant

programs, currently available only to American Samoa and the Northern Mariana Islands, will allow the territory access to grants which current budget limitations place beyond our reach.

The two provisions for Virgin Islands district court judges, Section 603 and 604 of the bill, are of particular concern to me. I believe it is important to grant our district court judges the additional two years on their terms necessary to assure full retirement benefits at the conclusion of their first term on the bench. To confer an eight year term, but require ten years of service before retirement benefits attach is unnecessary, and places an undue burden on territorial judges vis-a-vis their mainland counterparts. In the interest of correcting this inequity as soon as possible, the provision applies to seated judges.

The Virgin Islands also needs access to alternate judges when seated judges are unavailable. The senior judge provisions in Section 604 give the District Court of the Virgin Islands access to retired district court judges, thus avoiding the costly transfer of judges from other jurisdictions, or the need to tap the Territorial Court bench.

I understand that you intend to amend H.R. 5561, by adding S.

1366. I would support such a move, provided the amendment reflects the same language in pertinent part as contained in Section 603 and 604 of H.R. 5561. My only reservation regarding S. 1366 is the controversy its local appellate courts provision would cause in my district. I intend to urge the Virgin Islands Legislature to take up the appellate court provisions through referendum. This I perceive to be the best way to fully air the appellate court proposal for the Virgin Islands.

There are provisions in this bill which I have not raised in the interest of brevity. I do, however, urge you to support the bill passed by the House, with amendments such as I have proposed. As I mentioned earlier, I will be happy to respond to any questions or concerns you may have regarding the legislation.

Senator WEICKER. Thank you very much, Congressman. If you desire to do so, you are more than welcome to sit up here and listen to the panel as the administration offers its testimony.

Mr. DE LUGO. Thank you very much.

Senator WEICKER. We will now hear from the administration, our good friend the Assistant Secretary for Territorial and International Affairs, the Honorable Rick Montoya. Mr. Secretary, do you have anybody with you that you care to have?

Mr. MONTOYA. Yes.

Senator WEICKER. Why don't you introduce those that you have.

STATEMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY FRANK SOLOMON, DIRECTOR OF TECHNICAL ASSISTANCE

Mr. MONTOYA. Mr. Chairman, today I have Frank Solomon, the director of our technical assistance, with me at the table. As always, it is a pleasure to be before you and the committee discussing H.R. 5561. This has been a bill that I know the territorial delegates have worked long and hard on. It has some good parts and it has some parts that we support with amendment, and there are some parts that, of course, we object to.

When we started, Mr. Chairman, your counsel was explaining one of the portions to me. So I would like to amend for the record, please, my response on section 501 dealing with the discussion of the Frederick Lutheran Church property in the Virgin Islands.

We on the administration side feel that it is very clear that the United States turned over the title to the Virgin Islands Government. However, there appears to be some ambiguity regarding that. If the purpose of this section is to clear up that ambiguity, then I think it would be appropriate.

But going through the portions, Mr. Chairman, if it meets with your approval, I would like to have our full statement included in the record.

Senator WEICKER. The full statement will be included.

Mr. MONTOYA. I would like to concentrate my verbal statement to those portions dealing with economic development which I find very near and dear to my heart. We would specifically like to discuss section 203, which deals with the refinancing of the Federal Government's loan to Guam Power Authority. We feel this is a section that needs some amending. We have worked diligently for the last 8 months during my tenure with the Governor of Guam to make sure that Guam Power Authority would establish a track record, that was desired by the Congress and by the U.S. Government, which would be a viable type of operation.

Unfortunately, some of the members of the Guam Legislature saw it differently and they decided to take politically expedient moves to reduce the rates that GPA was charging the people of Guam. This put the whole question of Guam Power Authority in great jeopardy. The Bank of America called a technical default on their loan with GPA, and the Federal Financing Bank came to us. We talked about it.

I was forced to withhold section 30 funds to make their December interest payment of approximately $2.5 million; and then again in July, I withheld $1.6 million to make that payment. It is important to note that both of these payments were made from funds that were not anticipated, that exceeded the projection of the section 30 funds.

IDB's, Mr. Chairman, are something that I have been talking about, as you know, since I started with the Department of the Interior, because of the need to establish some capital for diversifying the economies of the territories. The Deficit Elimination Act provided a good step forward for the territories and we feel that in our statement we make some clarification that would assist the territories in their economic development moves.

On fishing, section 301, we support that portion and we feel it is something whose time has come. Again, we have there some very short amendments that we feel would clarify the meaning of that section and I think they would be things that would again improve our dealings with the territories.

Regarding urban development action grants, again, we have striven for continuity in the territories and we feel that this is something that is an important move in that direction.

That concludes my comments, Mr. Chairman. Of course, I am available for any questions that you or the committee might have.

[The prepared statement of Mr. Montoya follows:]

STATMENT OF RICHARD T. MONTOYA, ASSISTANT SECRETARY OF THE INTERIOR FOR TERRITORIAL AND INTERNATIONAL AFFAIRS, BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, REGARDING H.R. 5561--THE OMNIBUS TERRITORIES BILL, JULY 26, 1984.

Mr. Chairman and Members of the Committee. I am pleased to appear before you today to discuss the provisions of H.R. 5561--the 1984 omnibus territories bill.

We oppose enactment of H.R. 5561, and recommend that S. 2611 and S. 1366 be enacted in lieu thereof. We would not object to enactment of H.R. 5561, however, if it is amended to remove the bill's undesirable provisions.

Section 101 would authorize the appropriation of $2 million for each of fiscal years 1985, 1986, and 1987 for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands, including development of management, marketing and finance capability. At present, programs of the Small Business Administration and the Minority Business Development Agency are available through the Department of Commerce to aid business development. Because these programs are available, and because there is an overriding need to reduce the budget deficit, the Department of the Interior opposes enactment of Section 101.

Section 102, as an adjunct to section 101, would require the Secretary of the Interior to report to the House and Senate authorizing committees for territories by January 1, 1985, 1986, 1987 on administration efforts and recommendations for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands. Because we oppose the enactment of section 101, the provision contained in section 102 is unnecessary. The Department of the Interior, objects to the enactment of section 102.

Sections 201 and 202 would allow the Government of the Virgin Islands and the American Samoa Government to issue tax free industrial development bonds (IDBs).

Under section 647 of the Deficit Reduction Act of 1984, which was signed by the President last week, the Virgin Islands and American Samoa were given authority to issue IDBs within the meaning of section 103(b)(2) of the Internal Renvene Code of 1954. The Deficit Reduction Act provided for Federal tax exemption for Virgin Islands and American Samoa IDBs. One problem that continues to affect the demand for Virgin Islands and

American Samoa IDBs is that there is no state and local tax exemption. Assuming state and local exemption is the purpose of sections 201 and 202, the Department supports enactment of sections 201 and 202 if they are amended as follows:

> In sections 201 and 202 after the word "bonds" insert the words "(within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954)" and after the word "taxation" delete the words "by the United States or".

The reference to section 103(b)(2) is for clarification and the deletion will eliminate the ambiguity that might occur if the Federal tax exemption appeared both in the Deficit Reduction Act of 1984 and in H.R. 5561. Granting this state and local exemption for the Virgin Islands and American Samoa is consistant with the state and local tax exemption granted Guam and Puerto Rico.

Section 203 would authorize the refinancing of the $36 million Federal Financing Bank loan to the Guam Power Authority (GPA). The date of maturity would be extended from 1990 to 2004. An important change would be the requirement for semi-annual payments of principal. At present, under the interest-only loan, no payment of principal is required until maturity in 1990. Because of interference by the Guam legislature, the GPA has not been able to establish a sinking fund for the 1990 principal payment. In fact, GPA missed the January 1984 interest payment and most of the interest payment for July 1984. At this late date, it would be difficult for GPA to set aside sufficient amounts to pay $36 million of principal due in 1990.

We, therefore, support refinancing the GPA loan, but if and only if section 203 is amended to ensure repayment under a new refinance agreement. We recommend deleting all of section 203 after the words "following language:" and inserting in lieu thereof the following new language:

> "At the request of the Board of Directors of the Guam Power Authority for a second refinancing agreement and conditioned on the approval of the Government of Guam pursuant to the law of Guam, and conditioned on the establishment of an independent rate-making authority by the Government of Guam, the Secretary may guarantee for purchase by the Federal Financing Bank, on or before December 31, 1984, according to an agreement that shall provide for--
>
> (a) substantially equal semi-annual installments of principal and interest,
> (b) maturity of obligation no later than December 31, 2004,
> (c) authority for the Secretary, should there be a violation of a provision of this legislation,

or covenants or stipulations contained in the refinancing document and after giving thirty days notice of such violation to the Guam Power Authority and the Governor of Guam, to (1) dismiss members of the Board of Directors or the general manager of the Guam Power Authority, and (a) appoint in their place members or a general manager who shall serve at the pleasure of the Secretary, or (b) contract for the management of the Guam Power Authority, or (2) sell the Guam Power Authority to a person or entity that shall have the right to make a reasonable return on investment (as determined by the independent rate-making authority to be established by the Government of Guam, or in the absence of such an authority, as determined by the Secretary) based on rates that are consistent with generally accepted rate-making practices of public utilities, Provided, That the proceeds shall be used to first retire the obligations of the Guam Power Authority with the remainder of such proceeds to be paid to the Government of Guam, and

the Federal Financing Bank shall purchase such Guam Power Authority obligations if such Guam Power Authority obligations are issued to refinance the principal amount scheduled to mature on December 31, 1990. Should such second refinancing occur, (1) the independent rate-making authority to be established by Government of Guam, or in its absence, the Board of Directors of the Guam Power Authority shall establish rates sufficient to satisify all financial obligations and future capital investment needs of the Guam Power Authority that shall be consistent with generally accepted rate-making practices of public utilities, and (2) Government of Guam shall not modify the requirements of such refinancing agreement without approval of the Secretary. There are authorized to be appropriated to the Secretary of the Interior for payment to the Federal Financing Bank such sums as are necessary to pay the repurchase payment required under the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank and any subsequent repurchase payments required under the second refinancing agreement."

Our recommended amendment deals with four issues not addressed in section 203. First, it would revise the proposed refinancing provisions to meet concerns expressed by the Department of the Treasury. The Federal Financing Bank follow a uniform policy of offering credit on the same terms and conditions to all eligible borrowers. Consistent with this policy, the Federal Financing Bank should not be directed to provide credit on more favorable terms to any particular borrower or class of borrowers.

Second, it would require the establishment of an independent rate-making authority by the government of Guam.

Third, our recommended amendment would make viable a new financing agreement by explicitly showing the Legislature of Guam the consequences of politically expedient action that will endanger repayment of the debt.

Fourth, the Legislature and Governor of Guam are given authority to approve the refinancing agreement. Once approved, however, the issue would be removed from the political arena. At a time when this administration is trying to hold the line on spending, we must provide as many safeguards as possible to guarantee proper administration of the utility.

We have already tried twice, once in 1976 and once in 1980, to aid GPA in shouldering its financial burden. Both times, because of meddling by the Legislature in the business-like running of GPA, the utility found itself unable to meet its obligations. The demogogic action of the Legislature is peddled as saving money for the customers of GPA. But in truth, the Legislature is placing electric service on Guam in serious jeopardy. The amendment is necessary to let the Legislature know that its meddling with Guam's electric power and the Federal loan will no longer be toletated. We believe that refinancing now, with payments against principal to begin in 1985, is preferable to waiting until 1990. If we wait until 1990 we will only find that no payments have been made against principal, and that the lump-sum principal payment is in default. Rather than wrapping up this issue in 2004, it will drag on until the year 2010. The Department of the Interior supports enactment of section 203, but if and only if the amendment we recommend is included.

Section 301 Otherwise designated title III, represents a re-writing of draft legislation submitted to the Congress on March 22, 1984 by this Department. The March 22 draft was intended to (1) allow domiciliaries of American Samoa, Guam, and the Northern Mariana Islands to use foreign-built fishing vessels of five tons or more for fishing in the waters surrounding such territories, (2) allow the landing in such territories of the fish caught in these foreign-built vessels, (3) allow nationals of American Samoa and citizens of the Northern Mariana Islands to man such vessels, and (4) allow inter-territory transportation of fishery products.

The language appearing in section 301 differs from the language recommended in our March 22 letter, but is appropriate. However, in order to fully achieve the goals we had for the draft legislation, two amendments are necessary. First, a more precise definition is required for the term "citizen of the Northern

Mariana Islands." In paragraph (a) of section 301, we recommend the words "a citizen of the Northern Mariana Islands." be deleted and that the following language be inserted in lieu thereof:

> "an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 278)."

Second, under section 808 of title 46, in order for nationals of the United States (most of whom are resident in American Samoa) or citizens of the Northern Mariana Islands (who, for the most part, will shortly become citizens of the United States) to purchase documented vessels, without the approval of the Secretary of Transportation, they must be defined as citizens of the United States. We, therefore, recommend that paragraphs (a), (b), and (c) of section 301 be redesignated as paragraphs (b), (c), and (d), and that the following language be designated as a new paragraph (a):

> (a) in Section 1 of the Shipping Act, 1916 (Act of September 7, 1916, chapter 451, 39 Stat. 728, 46 App. U.S.C. 801) add the following at the end: "The term 'citizen of the United States' is as defined in section 2101 of title 46.".

The Department of the Interior strongly supports enactment of section 301 with the amendments recommended above.

Section 401(a) would authorize $9.6 million in appropriations for capital improvements on Guam for fiscal year 1986. The Bureau of Reclamation is currently conducting a water supply study. In addition, the Administration has not yet developed its budget for fiscal year 1986. The Department of the Interior, therefore, opposes this subsection and recommends that the proposed authorization contained in 401(a) be deleted from H.R. 5561 as being premature.

Section 401(b) would authorize the appropriation of $600,000 for planning improvements to the Alexander Hamilton Airport in St. Croix and would authorize expenditures for Hamilton airport construction from the $10 million authorized exclusively for Virgin Island water and power in section 303 of Public Law 97-357. The Department of the Interior recommends that the Virgin Islands seek funding for airport improvements through a request for discretionary funds under the jurisdiction of the Secretary of Transportation. Such Department of Transportation funds have been the source of Virgin Islands airport construction funding in the past. The Department of the Interior, therefore, is opposed to the enactment of section 401(b).

Section 401(c) would authorize a study by the Secretary of the Interior, in consultation with the Secretary of Housing and Urban Development, to determine the desireablity and feasibility of developing a housing program in American Samoa. Traditional financing of housing, with its banking and collateral practices, are in direct conflict with American Samoa's matai and land tenure system. We believe that a solution to this local problem lies with the people and government of American Samoa. The Department of the Interior objects to the enactment of section 401(c).

Section 401(d) would authorize the appropriation for fiscal year 1985 of $2 million to the Secretary of the Interior for grants to improve the production and distribution of water in the Northern Mariana Islands. The Department of the Interior views the need for water improvements on Saipan as the most crucial obstacle to economic development in the Northern Mariana Islands. The Department of the Interior, however, objects to such an authorization for fiscal year 1985. It was not included in the President's budget, and therefore, would increase the Federal deficit. We suggest that the Northern Mariana Islands earmark $2 million for water funding from the $7.5 million in Covenant funding set aside for construction. The Department of the Interior opposes enactment of section 401(d).

Section 501 would quit claim title to the Frederick Lutheran Church of Charlotte Amalie of certain land located under the Ebenezer Home in St. Thomas, United States Virgin Islands. We have checked the property list of the Department of the Interior and find no trace of the Ebenezer home.

The issue at hand is not properly addressed by section 501. Section 401(a) of Public Law 96-205 transferred all property involved with the 1916 convention (transferring the Virgin Islands from Denmark to the United States) to the Virgin Islands government. Therefore, if a cloud remains on the title of the Frederick Lutheran Church to the Ebenezer Home, that cloud involves Virgin Islands government and not the Federal government. The Department of the Interior recommends that section 501 be deleted from the bill.

Section 502 would transfer Government House on St. Croix from the United States to the Government of the Virgin Islands. At present, the National Park Service of the Department of the Interior administers the historic facility with its significant antique collection. Under the existing arrangement the Governor of the Virgin Islands maintains offices in the building and may utilize the residential quarters. We see no particular advantage in altering the existing arrangement with the government of the Virgin Islands. The Department of the Interior, therefore, opposes this section. Moreover, the Administration has consistently opposed conveyances of Federal real property interests without fair market value compensation.

Section 601(a) is intended to make available until fully appropriated and expended the five-year authorization of $1,250,000 for fiscal years 1979 through 1983 for the Urban Park and Recreation Recovery program in the territories of Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands. While the program authorization continues for the 50 states, this administration has actively sought to eliminate funding for the program on the grounds for local recreation. Local recreation needs are more appropriately funded from local sources of revenue, especially in times like these when there is an overriding need to reduce the budget deficit. We see no need to augment an authorization of a program that is already targeted for elimination. The Department of the Interior objects to the enactment of section 601(a).

Section 601(b) would extend to Guam and the Virgin Islands authority for Federal agencies to waive up to $200,000 in matching grants otherwise required for Federal program participants. Currently, this waiver is limited to the small territories of American Samoa (population 33,000) and the Northern Mariana Islands (population 17,000). Guam and the Virgin Islands with populations of over 100,000 each have larger tax bases and are more advanced economically that their sister territories American Samoa and the Northern Mariana Islands. The Department of the Interior is opposed to the enactment of section 601(b), because it is believed that the matching concept behind Federal programs is the only valid way to force a governmental entity to establish priorities as to exactly what its Federal program needs are. In addition, such a waiver could have a material affect on the deficit.

Section 601(c) would include American Samoa and the Northern Mariana Islands for eligibility under the Urban Development Action Grant (UDAG) program along with their sister territories of Guam and the Virgin Islands, which are already eligible. The program provides matching funds for economic development in the 50 states. This program would give consistency to our treatment of the territories with regard to the UDAG program. With our emphasis on economic development as the way to make territories self-sustaining, we strongly endorse inclusion of American Samoa and the Northern Mariana Islands in the UDAG program, and support enactment of section 601(c).

Section 601(d) would include, Guam, American Samoa, and the Northern Mariana Islands in the soil conservation program of the Department of Agriculture. Section 601 of Public Law 96-597, enacted December 24, 1980, provided the Secretary of Agriculture with authority to extend any program under his jurisdiction to the territories, and to waive or modify any requirements of a program if he deems it necessary to adapt it to the needs of a territory. This broad and flexible legislation, already on the books, would

allow extension of the soil conservation program to Guam, American Samoa, and the Northern Mariana Islands, as contemplated in section 601(d) of H.R. 5561. The Department of the Interior, therefore, is opposed to the enactment of section 601(d).

Section 601(e) would include the Northern Mariana Islands in the energy conservation program for public buildings. The Department of Energy already has this authority. Moreover, the Department of Energy is no longer funding this program. Therefore, the Administration opposes enactment of section 601(e).

Section 602(a), like section 601(b), would amend section 501(d) of the grant consolidation title of Public Law 95-134, this time to further relax requirements applicable to the territories. Because of section 601(b), this section would be applicable to Guam and the Virgin Islands as well as American Samoa and the Northern Mariana Islands. The Department of the Interior objects to the enactment of section 602(a) for the same reason as it objected to section 601(b), it lessens the incentive of a territory to establish priorities among its applications for Federal programs. If self-determination is to be more than a mere sham, it requires a shouldering of responsibility. Like the citizens of the 50 states who are recipients of Federal programs, the citizens of the territories must pay their fair share. The Department of the Interior is opposed to the enactment of section 602(a).

Section 602(b) would allow the administrator of the Envioronmental Protection Agency (EPA) to make sewer construction moneys available to all the territories including the Northern Mariana Islands and the Trust Territory of the Pacific Islands. The Department of the Interior defers to the EPA with regard to section 602(b). The Administration opposes enactment of section 602(b) as currently drafted because it would grant EPA authority to fund operations and maintence costs of individual sewage systems, which is broader than EPA's authority with respect to states. EPA will be commenting further on this section.

Sections 603 and 604 are judicial reform provisions applicable to the Virgin Islands. They deal with issues that are the subject of a comprehensive judicial reform bill applicable to all the United States territories and the Northern Mariana Islands--S. 1366.

The Department of the Interior defers to the Department of Justice as to the merits of sections 603 and 604. In order to achieve a modicum of judicial consistency among the territories, the Department strongly suggests the S. 1366, with amendments, if any, recommended by the Department of Justice, be substituted for section 603 and 604.

Mr. Chairman, we appreciate the opportunity to make our views on H.R. 5561 known.

Senator WEICKER. Section 401(b) would provide $600,000 for the Alexander Hamilton Airport in St. Croix. It would also permit use of the funds previously authorized for water and power. Why is it taking so long to commit funds to complete the airport?

Mr. MONTOYA. This has to do with, I think, more Department of Transportation's timing on how their airport funds come down. I know that Congressman de Lugo and I have talked on a regular basis with the people over at FAA about how these funds come on line. We feel that this situation is improving and we also feel that we will start seeing some quicker response and hopefully some action by the Department of Transportation that will allow us to move forward with this work.

In direct answer to your question, I do not know what has caused the delay, Mr. Chairman.

Senator WEICKER. The committee has been working with the Department of Justice to refine the judicial reform bill, S. 1366. Are you satisfied that the legislation as it presently exists adequately covers sections 603 and 604 contained in the bill and do you support S. 1366 as modified in our discussion with you?

Mr. MONTOYA. We do and we defer to Justice for any detailed comments on that section, since it does deal with the judiciary.

Senator WEICKER. Do either of the Congressmen have any questions.

Mr. DE LUGO. Yes, thank you, I do. But I will defer to my chairman over there.

Mr. WON PAT. Mr. Chairman, thank you for yielding. I would like to comment with respect to the particular point that the Assistant Secretary has commented on and that is the GPA, Guam Power Authority. As you probably know, one of the senators in Guam, Don Parkinson, had instituted an initiative and had attained the signatures of over 10,000 consumers to revert the increase of the rates imposed by the GPA.

Now, that will come about, of course, in November during the election. Now, the impact of that, I believe, will be such that the GPA will be forced to reassess its rates. Otherwise, we will have to go down to the previous rate that was established. So I believe in the light of the condition, the financial condition of the GPA, which this legislation will, of course, work upon, and I feel that it would alleviate the general public of the burden of this increasing high rate, to lessen, of course, the burden of GPA from its obligation. And that is by extending, in other words, the time for repayment and cutting down the interest rates.

Thank you, Mr. Chairman.

Mr. MONTOYA. Mr. Chairman, in response to Congressman Won Pat's comments, again, I am troubled by the meddling of the Guam Legislature in this question of rate setting. It is an issue that provides great fodder for the political process and because of a politically expedient topic, that is, trying to operate under the guise of saving the consumer some money, we run the risk of running GPA out of business, because they will not be able to meet their obligations.

I think our friend, Mr. Parkinson, should worry about what is going to be done about power for the people in Guam when he runs that power authority into the ground because of something that

might be geared toward getting him more votes. I am very concerned about this. Guam is in financial trouble. I do not think there is any question about that. Something needs to be done with Guam Power Authority, but that something is that the rate making structure needs to be moved out of the political process into an independent rate making board, much as we have here in the mainland United States, such as a public utilities commission that serves two goals: No. 1, to protect the production of that product or service; that is, electricity; and, No. 2, to assure the consumer that the rates that are being charged are fair and appropriate for that service. But to handle it strictly in the political arena where, of course, nobody wants to vote for higher rates that take money out of your pocket, I think is very dangerous and I would target it directly on this idea of the legislature setting the rates for production of electricity, Mr. Chairman.

Senator WEICKER. Let me make this comment that even in the United States in the past decade where we have a public utility commission, or whatever you want to call it, that process has been politicized and it has been disastrous wherever it has been politicized.

I think that I can only say one thing from the chairman's point of view, I could not agree more as to having independent rate making authority. I might add even then, I will tell you what they will do, because they did it in Connecticut. Our good friend, I think it was our former Governor, and one of the reasons she was elected was she campaigned against the public utility commission. When she became Governor, all she did was change the name. They have changed it from the public utilities commission to something, but it is the same body. It makes a good political issue. There is just no question about it.

The difficulty arises when, never mind what we do on this committee. Obviously the Bank of America which is not subject to my authority, and they obviously have to make their independent judgment devoid of politics and what is going on and from what you tell me, they have taken some rather severe action. So I do not want to be in disagreement with my good friend Congressman Won Pat, but I can assure you that I do not intend to—I am not in a position on this committee to set public utility rates in Guam.

I went to the University of Virginia Law School and I spent 1 year on public utilities law and I was lucky to get out of the course with a passing grade, never mind go ahead and apply it to anything in the future. And I do not intend to have this committee used as a ratemaking authority.

It would seem to me that regardless of what the committee does, we have other problems right out there in the private sector, which is not under my jurisdiction as to this matter. You are darn right, I do not doubt that 10,000 people would sign a petition saying we want lower rates. You would sign one and I would sign one, too, probably. That is not going to go ahead and do the job.

Mr. MONTOYA. It is an issue that lends itself to, as I continue to say almost to the point of becoming cliched that——

Senator WEICKER. Let me tell you one thing, here in the United States, it has raised holy hell by utilities, and mind you we have independent ratemaking, but even there the promise of appointing

members friendly to a new administration, et cetera, it has raised holy hell with them being able to get the necessary capital to provide the equipment to deliver the service.

And I do not know any political way out of this problem. I really do not. And there are some real difficulties here with the power authorities. I know one thing I am not going to be part of the bailout operation. Obviously the Bank of America is not going to be part of a bailout operation. Guam had better get its act together on this count.

Mr. MONTOYA. Mr. Chairman, I could not agree with you more and I think, as you know, we have been fighting this issue tooth and nail and I have to commend Governor Burdelia for taking the strong action in moving forward with this rate increase that was recently passed by the Guam Legislature. And, again, GPA is a good indicator of problems, as you have said, that we have in the power authority business throughout. I really and truly think that the only solution to it is to privatize and that has got some down sides, too. But the Government should not be involved in this business of providing electricity.

Senator WEICKER. I am perfectly willing, so that we understand, Congressmen, where we are, I am perfectly willing—I am not saying Guam has to go to privatizing. if they want to keep it under government, then they keep it under government. Then the government assumes responsiblity for it, not this Government, not the Bank of America.

I have a feeling if those avenues are foreclosed, then there is going to be a realistic approach toward the problem in Guam. I just want to make it clear as far as this committee is concerned, I want Guam, Congressmen, to have all the authority it wants. I do not want your constituency to be run by Washington.

I feel you under your leadership and your Governor's leadership, you are best able to handle your problems. On this issue here, I tend to follow through on that philosophy with as much autonomy as possible.

Mr. WON PAT. I would like to make a very short comment, . Mr. Chairman. I certainly agree with you, Mr. Chairman, on the philosophy of this thing. We all subscribe to the principle that private enterprise is the best way to run most of our public services.

Now, in this case, you will recall, that there is a nature against the Guam Power Authority to determine the rates. It was severely criticized.

Mr. MONTOYA. That is correct, but they also held unto themselves the loophole to pull it back and that is what, as we know, Mr. Parkinson is starting to do right now. He is throwing it out as an initiative for the ballot.

Mr. WON PAT. Well, that is Mr. Parkinson's business, of course. Most of the administration officials do not agree with that action of his. In our system of government, you cannot prevent someone from taking the initiative. How did he get over 10,000 signatures, I don't know, but anybody will say, everybody will like to sign, of course, his name to any proposal that will reduce the rates.

Senator WEICKER. If people are signing this, and this is going to be on a ballot or it is a matter of discussion in Guam, I just want everybody in Guam to know where this committee sits. There isn't

any relief coming from this committee. Let's understand that point and I gather this is the position of the administration. It is also the position of the Bank of America. So let's all understand what is going to happen.

Mr. MONTOYA. The position of the administration is that, at this time, our adversaries are talking about a deficit that we believe they created. It is foolish to be talking about a "bailout" that does not have some protection for the taxpayer and in my comments, my amendments to this section we're talking about some qualifiers, some strings attached that we feel provide the protection for the taxpayer that make us feel a little bit more comfortable. Even though we do not like the idea of this refinance, there is some appreciation that all things are not well in Guam as far as GPA goes right now.

Senator WEICKER. Congressman de Lugo.

Mr. DE LUGO. Thank you very much, Mr. Chairman. Mr. Secretary, are you aware that at the present time the Virgin Islands government carries the full cost of maintaining the government house on St. Croix?

Mr. MONTOYA. Yes, I am.

Mr. DE LUGO. You know we transferred the government house in St. Thomas to the people of the Virgin Islands. In fact, we transferred a great number of buildings and property some years ago and it was merely an oversight that the St. Croix government house was not included. I think that it is very important that this be turned over to the people of the Virgin Islands. I think that they are just as sensitive about—in fact, I would say even more sensitive about the historical significance of the government house of St. Croix, which was the seat of the government most of the time when the Danes ruled those islands as is the Federal Government.

Regarding the airport, as you know the——

Senator WEICKER. Can I interpret there? In other words, what you are saying is that is still held by the United States, that property?

Mr. MONTOYA. That is correct, Mr. Chairman.

Mr. DE LUGO. It is. But the Governor has his office there. Receptions are held there. It has a beautiful ball room. There are government offices there and the maintenance is paid for by the government of the Virgin Islands at the present time.

Regarding the airports, as you know the administration is committed to the completion of the St. Thomas airport, the Harry S. Truman Airport, and that is a very difficult project because of what nature has given us there in St. Thomas.

Would you not agree, Mr. Secretary, that the increased competition for discretionary funds makes it highly unlikely that the Virgin Islands could expect funding for the St. Croix airport extension at this time?

Mr. MONTOYA. I know that in our discussions with Transportation, Transportation has talked about appreciating our problem with the extension. As far as the rating of those funds, I have not gotten into the Department of Transportation rating system, so I really would have to defer to them on that particular question, Congressman.

Mr. DE LUGO. The fact is, Mr. Chairman, that as you know we are continuing with that massive project on the island of St. Thomas and that will take another 2 years to complete. Nature has given us on St. Croix an airport that can do what the St. Thomas airport will never be able to do, and that is they have given us an airport that we can expand to 10,000 feet.

What we would like to see, we want to see that as a hub for the Caribbean. We look forward to the day where fully loaded planes will be able to take off for the west coast and for Europe. It is for that reason that I am pursuing this approach, because it is simply unrealistic to expect that given the tremendous competition of the discretionary funds that St. Croix stands any chance of getting any appreciable funds, any meaningful funds within, I would say, the next 5 years.

Senator WEICKER. What are we talking about in the total amount of funds for that?

Mr. DE LUGO. We are talking at the present time of $600,000 to complete the plans for the expansion and some $9,400,000 to complete the actual work of the expansion.

Senator WEICKER. I don't see, Rick, why this just cannot proceed immediately. Here is an island with a tremendous unemployment rate. As the Congressman has indicated to you, nature has endowed it with a really relatively simple situation as to the expansion, development and expansion of the airport.

Why can't we get on with this? I do not understand that. We are competing for that dollar. Are we afraid that somebody is going to accuse us of making it into a military airbase or whatever have you? Large airfields are absolutely, totally necessary to the economy of the nations in the Caribbean. Let's take a for instance. We are no different than Granada or anywhere else in that respect. Counsel informed me there are, what, $300,000 in the House appropriations bill?

Mr. MONTOYA. That is correct. That passed yesterday on the House floor.

Senator WEICKER. Why can't we get on with this? What is the problem? The amount is not that great. The need is clearly there. There is a massive unemployment problem on the island. Why can't we get on with it?

Mr. MONTOYA. I don't know, Mr. Chairman. As I said, we have talked about this issue for a long time, far too long, and the way this portion is stated where we are talking about tapping water and power money, I am a little bit concerned about it, because we really do not know the extent of the need on the water and power problems.

Senator WEICKER. Why do we have to tap water and power money? Why can't we just get airport development money in this? I do not understand that. What is the problem? I have not been privy to all of the discussions obviously. We see this testimony, but I really do not understand what this is about.

Mr. MONTOYA. I would imagine, and this is conjecture on my part, Mr. Chairman, that Congressman de Lugo's comment about the rating and the priorities that are set by Transportation. Again, I would be forced to defer to them on why this thing has dragged on.

Senator WEICKER. Do we have somebody from the Department of Transportation here? Well, I will ask again counsel on the committee to go ahead and peruse it and see where we stand on this. I do not see any reason why it should be delayed 1 day. I really don't.

Mr. DE LUGO. Thank you very much, Mr. Chairman. May I say that this is really just reauthorizing money that originally we had, there were moneys actually authorized. However, it is authorized for water and power and when that was not pursued by Interior and others, we went ahead and issued bonds. We took the bonding route. So there is—in other words, it is not going to affect the budget. It is simply going to relabel money that was to go for water and power, it is now going to go for the airport expansion.

Senator WEICKER. Counsel informs me here the administration, Rick, has strongly opposed any appropriation to the water and power money for water and power. So it is strange for them to defend the water and power money as far as the airport development is concerned.

Mr. MONTOYA. I think what we are talking about there is the Secretary's guarantee, Mr. Chairman, rather than direct appropriation.

Senator WEICKER. Now, look, let me just say this and I am sure that the situation is applicable in other areas, but I happen to have firsthand knowledge of the Virgin Islands, and really there is a tremendous problem down there and a tremendous opportunity. The problem is insofar as unemployment is concerned and the development of this great resource of the United States of America.

Now, we are just not going to be able to do it on nickels and dimes and yet the amounts that are asked for really are not all that great. I think that the time has come, the time has come to push ahead. And I don't want to hear anything from the press about how I have, I will put it right on the table, 3 acres of undeveloped land in St. Croix, which some day after I get out of this government I want to go ahead and enjoy, but I go down there all of the time and that is why I do have firsthand knowledge, but I think it is a lovely spot and I like to spend my dollars in the U.S. territory, if you will.

But that also gives me the opportunity to see the condition of the people on that island and they have an opportunity, I think, to really become a part of this world-travel market. They need that airport. And as far as the unemployed on the island are concerned, there is a lot to do there, as far as the airport or the power or the rest of these things, and, again, the moneys that are involved are so small, unless we want to have this as a charge on the United States of America.

I am not suggesting make-work projects. Neither is the Congressman. We are suggesting it falls right into the pattern of what this administration stands for and at a minimum of commitment on its part, I think it can be accomplished to achieve all of that, both as far as the island's place in relationship to world travel; as far as its own infrastructure; as far as its own people are concerned.

So I don't know what all the hangups are, but I am going to ask counsel to get on it and let's get with it.

Mr. MONTOYA. Mr. Chairman, to close this section, I do not think any of us in the administration question the need, but the problem

is the timing of when the funding comes forward and I think therein lies the bottom line. When do we bring it on line? Is it as important as some of the other things that are in the budget that all of us are trying to keep down as matters build up?

Senator WEICKER. We will bring on line Granada airport in October and I would like to move to bring on line the major airport in the U.S. territories. I think we have a great opportunity here. I know the Secretary agrees with me on that. Let's get on with it.

Are there any further questions of the Secretary?

Mr. WON PAT. No further questions. I want to thank you for asking us to sit with you in this hearing and listen to the comments of the administration. Furthermore with respect to that GPA, there is nothing in this bill that will give carte blanche authority to the legislature or anybody.

Mr. MONTOYA. No; but again, Congressman, I think with our amendment we put some safeguards in there that are lacking without them.

Mr. WON PAT. Let us not forget, Mr. Secretary, that the GPA, the power of Guam, is jointly used for the military as by the civilian sector. So, in other words, the military has a lot to say about it.

Mr. MONTOYA. That is true and as we have talked about in other hearings and other meetings that power-pool agreement is something that has been quite controversial and I had the good fortune of visiting with some of the Navy people 2 weeks ago, Deputy Assistant Secretary Stern, about this issue, and I raised the point that we needed to look at the specifics of the power-pool agreement and hopefully start some discussions with the Government of Guam, GPA, Interior, and Navy, and see how that can be approved. So your point is well taken.

But as I have committed to you several times in the past, we are moving in a direction to start all of the parties talking on how to improve that power-pool agreement that I think all parties agree is fraught with problems and advantages for one party versus another, and I am not going to say who is benefiting most out of it, but I think it is time that we started talking about it and correcting our problems.

Senator WEICKER. Does the U.S. military pay its fair share of these utility costs? Is it like a public utility user on Guam or are they in a preferable situation?

Mr. MONTOYA. That is one of the issues that has been bandied back and forth.

Senator WEICKER. I do not think it is proper for the people in Guam to be in any way subsidizing the U.S. military.

Mr. MONTOYA. Again, that is one of the issues that I discussed with the Navy folks, and, again, I raised the same question, Do we have some hard numbers? GPA's figures say one thing and Navy's figures say another and I think it is time to sit down and talk about it.

Mr. WON PAT. May I interject? I am very glad that the Interior has taken an interest in this matter, because with respect to the Government of Guam, the Navy has become stalemated with respect to the negotations as to the Navy's obligation to pay so much of the power that they are consuming. I am glad that the Interior took interest in this thing.

Mr. MONTOYA. We did take interest in it and, of course, with my boss's signature guaranteeing that FFB loan, I felt that it behooved us to take a look at the whole GPA operations and if we have got problems in one area, one area that is causing a cash drain on that operation that is exacerbating their problems, that we needed to take a look at it. One of the things that was just a big question mark was this power-pool agreement.

Senator WEICKER. Rick, I thank you. Let me say this, I also want to compliment you. I feel that you really are trying very hard to get involved in the problems that have been raised in the various territories and not doing it in imposing some philosophy from Washington on the territories, but under your guidance you are trying to understand what each of the problems are in the respective areas, and they are all different.

I think you are doing a fine job and I look forward to working with you on some of these matters and I am sure the Congressmen do also. It is nice to have somebody who has an interest and is willing to talk and try to put things right and in the proper perspective.

Mr. MONTOYA. Mr. Chairman, I really appreciate those comments, because we catch blazes all of the time, but we very rarely get any comments when we are starting to chart a new course, that is a difficult course admittedly. When we look at our stewardship in the past and our commitment of this administration to move more self-determined action and self-sufficiency to the territories, those added responsibilities have a hook attached to them and that is that they are going to have to start making hard decisions and they are going to have to start living within their means and I know that the representatives from the islands I think agree with us that it is far, far better to address these issues now than get ourselves embroiled in an unmanageable deficit or exacerbate the existing deficits to a point where future generations are going to be in danger.

So thank you very much for your strong support, Mr. Chairman, and the cooperation I have received from staff and other folks in biding with us and supporting us when you all feel that we are doing the right thing.

Mr. DE LUGO. Mr. Chairman, I want to join with you. You know Rick or the Secretary just came up here and he just about opposed everything I had in the bill, but we do not have a confrontation. In many cases he has a different agenda. In many cases, I believe he is overruled, but be that as it may, I think that we are very pleased. I know we have said this many times on the House side in charge over there, I think he is sensitive to what we are trying to do.

Also, I would like to say, Mr. Chairman, I would like to thank you for the great courtesy that you have paid to Chairman Won Pat and myself in inviting us to sit in with your committee. As far as I know this is the first time in the history that the delegates have been so honored. I think it is a great honor that you do to the people of the territories. It must be the first time. You were the first delegate from Guam and I was the first delegate from the Virgin Islands, the only one except for the 2 years when Governor Evans was here, and so this is the first time. We thank you.

Senator WEICKER. As long as I chair the committee, we will make it a custom. That is all.

Mr. WON PAT. Thank you, sir. I understand you have an appointment and have to go. I want to echo your comment with respect to our Secretary of the Interior for Territorial and International Affairs. Since he has come to office, he has been very cooperative in trying to understand the problems of the territories. I am glad that he has been working with, not only with us on the Hill, but also with the officials. As I understand he is going out there again with some of the administrative officials to look into the problems affecting the territories.

I intend to follow that up by having professional people from the Hill go down there to some of the areas that they are concerned with.

Again, thank you, Mr. Chairman, for your very gracious action in asking us to sit with you.

Senator WEICKER. I am glad to have you here. We have a couple more administration personnel you might want to stay for.

Mr. DE LUGO. May I say one thing about your remark about the 3 acres of land you own in St. Croix. Well, actually the interest in the St. Croix airport is bipartisan, because you have three acres of land in St. Croix, but also the Vice Presidential nominee has some property on the Island of St. Croix. So this is a bipartisan concern and I wish you would carry that back to the administration.

Senator WEICKER. I would say the Vice Presidential nominee is far more appreciated in her party than I am in mine.

Rick, thanks an awful lot.

Mr. MONTOYA. Thank you, sir.

Senator WEICKER. We have now, at least I have according to my witness list, the Department of Treasury and also the Environmental Protection Agency. We have administration witnesses from both of those agencies. Is that correct? We have Federal Financing. Is somebody here from Treasury?

Ms. OUSELEY. I am from the Federal Financing Bank in the Department of Treasury.

Senator WEICKER. Fine. This is Secretary Jill Ouseley. Is that right?

Ms. OUSELEY. Right, and Peter Makey is with me, who is the Manager of Federal Financing Bank.

Senator WEICKER. Mr. Whittington, Acting Director of the Office of Water Program Operations. Is that right?

Mr. WHITTINGTON. Yes, Mr. Chairman.

Senator WEICKER. All right, fine, any testimony that you have and then any questions.

Secretary Ouseley, why don't you proceed first and if we have questions, we will ask them.

STATEMENT OF JILL K. OUSELEY, ASSISTANT SECRETARY, FEDERAL FINANCING BANK, DEPARTMENT OF THE TREASURY, ACCOMPANIED BY PETER MAKEY, MANAGER, FEDERAL FINANCING BANK

Ms. OUSELEY. I am here to present views on how section 203 would affect the Federal Financing Bank. We have submitted a

formal statement both on the Federal Financing Bank, section 202 and also on the IDB issues in sections 201 and 202 separately. But I am going to confine what I say simply to section 203.

The amendments that have been proposed by the administration for section 203 would permit the Federal Financing Bank to follow its usual policies of operating to fund loans that are issued directly by Federal agencies or guaranteed by Federal agencies offering the same terms to all borrowers who meet the FFB eligibility requirements. We ourselves are not in the business of providing any subsidized financing.

The market prepayment provision, which would be undone by the section 203 language, of the FFB note with Guam Power Authority provides for the Federal Financing Bank to receive a payment if the loan is prepaid equal to the current market value of the obligation at the time of prepayment.

This protects the Federal Financing Bank from market price risk on the obligation since the Federal Financing Bank itself borrows from the Treasury and theoretically the Treasury could go out in the market and buy back its obligations that were used to fund the Guam Power Authority loans, also at the market price.

We did a computation as of July 25 on what the market prepayment would be for the GPA notes. We calculated that on the $36 million principal amount outstanding, the price would be $37.4 million. So that there would be a direct cost to the FFB and the Treasury of $1.4 million should those obligations be required to be prepaid at a par price, instead of the current market price.

We are very concerned about the precedent that would be set with respect to other programs that are financed by the FFB. FFB currently holds approximately $140 billion worth of obligations, and should wide-spread forgiveness or change of our market prepayment terms occur, we could incur losses in the billions of dollars.

That is my statement.

Senator WEICKER. Thank you very much.

Mr. Whittington.

STATEMENT OF WILLIAM A. WHITTINGTON, ACTING DIRECTOR, OFFICE OF WATER PROGRAM OPERATIONS, ENVIRONMENTAL PROTECTION AGENCY

Mr. WHITTINGTON. Yes, sir. Mr. Chairman, I am Bill Whittington, representing EPA. I am here to discuss section 602(b), which has to do with sanitation needs and the construction grants program that EPA administers.

We have been aware for some time of the significant basic sanitation and public health needs that exist in the territories. The presence of cholera in the Truk Islands highlights the fundamental nature of the needs in some of these areas. These areas need a comprehensive approach to sanitation and we recognize that in the objective of the bill itself.

It is of little value to construct a treatment plant without the presence of sewage lines and it is of little value to install sewage lines for people who cannot afford a toilet and who do not have water to make it function. We need, however, to take a close look

at section 602(b). The Clean Water Act now allows up to 20 percent of a State's annual allotment to be used for sewage collection systems and other previously eligible categories, beginning in fiscal year 1985.

We supported the construction grant program reforms in 1981 which led to these changes which will come into effect in 1985 and continue to believe they should be allowed to run their course.

We do understand the concerns of the Congress, however, and we will fully evaluate the merits of this proposal. The provision that is contained in the House bill may be broader than necessary to accomplish the objective of Congress. Upon completion of our review, we will welcome the opportunity to provide your staff with our recommendations. I assure you we will give this very serious attention and respond to your request for our views as soon as possible.

We are aware of your markup next Wednesday and are working to that end. I would be pleased to respond to any questions you might have.

[The prepared statement of Mr. Whittington follows:]

STATEMENT OF
WILLIAM A. WHITTINGTON
ACTING DIRECTOR
OFFICE OF WATER PROGRAM OPERATIONS
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY
COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

JULY 26, 1984

Good morning Mr Chairman and members of the Subcommittee. My name is Bill Whittington and I will be representing the Environmental Protection Agency before you today. I am here to discuss Section 602(b) of H.R. 5561, a bill dealing with economic development in the Insular Areas. This particular provision affects the operation of a major EPA program in these Areas, the construction grants program.

Through operation of the construction grants program in these Areas over a number of years, we have become aware of the significant basic sanitation and public health needs that exist, particularly in the Pacific Territories. We are further aware that there are a number of circumstances that distinguish the needs of the Pacific Territories. Past heavy reliance on Federal funding, subsistence lifestyles in many areas with low or no cash income, remoteness, and the lack of basic infrastructure in many areas all point to the need for special concern. The tragic presence of cholera in the Truk Islands highlights the fundamental nature of the needs in some of these areas.

Areas such as the Truk Islands often need a comprehensive approach to their sanitation needs. It is of little value to construct a treatment plant without the presence of sewage lines, and it is of little value to install sewage lines for people who cannot afford a toilet and who do not have water to make it function.

These are the kinds of problems we must deal with in some of the Insular Areas. EPA is aware that we must deal with them in a comprehensive way to produce the desired results of improved public health and water quality. We understand that this bill, and Section 602(b) in particular, is intended to deal with this situation.

EPA has only recently begun looking at Section 602(b) and has not yet formulated its position on this provision. It may be that current Clean Water Act authority, in conjunction with other authorities such as the Omnibus Territories Act, can deal with these problems. We need, however, to look at this further. Currently, the Clean Water Act will allow up to 20 percent of a State's annual allotment to be used for sewage collection systems and other previously eligible categories, beginning in fiscal year 1985. Further, the innovative and alternative technology program receives strong emphasis in the current Clean Water Act, and that program continues through FY 85, the current authorization for the construction grants program. We supported the construction grant program reforms in 1981 and continue to believe they should be allowed to run their course until the current authorization expires at the end of the next fiscal year.

We do understand the concerns of the Congress, however, and we will fully evaluate the merits of this proposal. At the same time, we must not unnecessarily fragment through exceptions a working national program.

For the moment, I would like to suggest that the provision as contained in the House bill may be broader than necessary to accomplish the objective of Congress. It needs to be more precise in its purpose or the underlying principles of the Clean Water Act may be lost. Further, its application to Puerto Rico and the Virgin Islands, as well as the Islands of the Pacific, may be neither necessary nor appropriate. Upon completion of our review, we will welcome the opportunity to provide your staff with our recommendations for dealing with the problems at hand.

As an aside, I would just like to note that the House floor statement of the sponsor of this provision contains a significant misunderstanding. Namely, that H.R. 3282, amendments to the Clean Water Act (which passed the House on June 26th) extends eligibility of sewage collection systems past FY 84. While this provision was in earlier drafts, it was not in the version passed by the House. H.R. 5561 would stand alone in extending such eligibility.

I am sorry to be unable to provide you with our position at this time, but I assure you we will give this serious attention and respond to your request for our views as soon as possible. I would be pleased to respond to any questions you may have.

Senator WEICKER. The only one I have is directed toward you, Mr. Whittington. We will be marking the bill up next week and I would appreciate comments from your department.

Mr. WHITTINGTON. We will do everything we can to get them to you.

Senator WEICKER. I think you understand the time constraints. If we do not do this in this session here, then I see the thing quite frankly not until sometime in September. So I want to get it done.

Congressman Won Pat, do you have questions of either witness?

Mr. WON PAT. I have no comments at this time, sir.

Senator WEICKER. Congressman de Lugo.

Mr. DE LUGO. Thank you very much, Mr. Chairman. I have one question of the Secretary concerning the lack of a sunset provision for American Samoa and the Virgin Islands IDB authority. No such sunset is imposed on IDB authority under the Internal Revenue Code in the recently passed tax bill. Why is it considered necessary to impose a sunset, and such a short one, on these territories?

Ms. OUSELEY. I am here simply to represent the Federal Financing Bank and I will be glad to seek a response to your question for the record from the Treasury tax people. But I am not qualified to answer your question.

Mr. DE LUGO. Thank you. One more question here and then I will be finished, and these questions came about because of the statements that were submitted for the record. With regard to the $50 million cap that I have sought for the territories, not $200 million, which I agree is high, that reference is made to that in——

Ms. OUSELEY. I am sorry, I cannot speak on the tax issue, just the Federal Financing Bank.

Mr. DE LUGO. For the record, I would just like to comment, for the same reason States need economic development benefits that are offered by IDBs, the territories also need economic benefits. I would like to say that for the record. Thank you, Mr. Chairman.

Senator WEICKER. Do we expect—let me ask counsel—do we expect Treasury to comment on the IDB issue that is raised in this bill?

[Discussion between counsel and Senator Weicker.]

Ms. OUSELEY. A formal comment has been sent by Assistant Secretary Chapoton——

Senator WEICKER. Pardon me.

Ms. OUSELEY. A formal comment dated July 26 has been sent by Assistant Secretary Chapoton, the tax person in Treasury.

[The Department of the Treasury submitted the following:]

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

JUL 26 1984

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
RECEIVED
JUL 26 1984
WASHINGTON, D.C. 20510

Dear Mr. Chairman:

We understand that the Subcommittee on Energy Conservation and Supply is considering H.R. 5561. Sections 201 and 202 of the bill would authorize the Virgin Islands and American Samoa to issue "industrial development bonds which shall be exempt, as to principal and interest, from taxation by the United States, or by any State, territory or possession of the United States or any political subdivision of any of them." The purpose of this letter is to inform you of action taken in the recently enacted Deficit Reduction Act of 1984 (the "DRA") that deals with these issues and to express our concerns about several provisions of the bill.

The DRA authorizes the Virgin Islands and American Samoa to issue tax-exempt industrial development bonds, and provides for this right to sunset on July 1, 1987. The DRA also provides that a possession of the United States is treated as a State for applying certain provisions of the Code that place limitations upon the issuance of tax-exempt bonds, except that the $200,000,000 minimum volume cap does not apply. Possessions therefore have an annual ceiling of $150 per capita on their issuance of student loan bonds and industrial development bonds that are subject to the volume cap.

We are concerned about the manner in which H.R. 5561 grants the power to the Virgin Islands and American Samoa to issue industrial development bonds. The language of H.R. 5561 creates uncertainty because it does not adequately define and restrict the privilege granted. The language used is unfortunately similar to that in section 11(b) of the Housing Act of 1937. One court has construed the 1937 Act language as granting an exemption from Federal estate and gift tax. That decision led to specific clarifying legislative action in the DRA.

We are also concerned about the lack of a sunset provision in H. R. 5561. The Department of the Treasury has consistently supported sunset dates for legislation that expands the authority to issue tax-exempt private activity bonds. These obligations are equivalent to a Federal subsidy and result in a substantial revenue loss to the Federal government. The sunset provision will give those committees of Congress which deal with the possessions time to set up direct subsidy programs where

warranted. There are numerous examples of sunset provisions in the tax-exempt bond sections of the Code. The Mortgage Subsidy Bond Tax Act of 1980 contained a sunset of December 31, 1983 for mortgage subsidy bonds. The DRA extended this to December 31, 1987 and added the mortgage credit certificate option. The Tax Equity and Fiscal Responsibility Act of 1982 provided for the termination of small issue industrial development bonds after December 31, 1986. The DRA extended this to December 31, 1988 for small issues used to finance manufacturing facilities. Thus, the sunset provision on the ability of the possesions to issue tax-exempt industrial development bonds is consistent with the Department of the Treasury's position on private purpose tax-exempt bonds and we continue to support it.

Another question that may be of interest to the Subcommittee is whether the possessions should be limited to a volume cap of $150 per capita or be given a separate volume cap similar to the $200,000,000 minimum granted to the States. A brief description of the origin of the $150 per capita limitation may be helpful. This cap was determined through a review of the historic levels of issuance nationwide of industrial development bonds and student loan bonds. The objective was to limit the nationwide growth in volume of such obligations and to allocate this volume fairly among the issuers of such obligations. The addition of the $200,000,000 minimum was not supported by the Department of the Treasury. A separate volume cap for possessions which exceeds the $150 per capita limit will stimulate further growth in the volume of private purpose tax-exempt bonds and increase the revenue loss to the Federal government. Finally, granting each possession a separate $200,000,000 allocation will result in them receiving a windfall benefit compared to the States. The $200,000,000 minimum results in increasing the per capital limitation for sparsely populated States. For example, Alaska, the State with the fewest residents, is able to issue private activity bonds in a quantity that would represent $456 per capita, using the most recent census information. If American Samoa and the Virgin Islands were eligible for the same minimum they could issue $6,250 and $2,062 per capita, respectively. Even if all possessions were considered one State for this purpose and granted one $200,000,000 allocation, collectively they could issue an amount of bonds representing $794 per person.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this letter to your Subcommittee.

Sincerely,

John E. Chapoton
Assistant Secretary
(Tax Policy)

The Honorable
Lowell P. Weicker, Jr.
Chairman, Subcommittee on Energy
Conservation and Supply
United States Senate
Washington, D. C. 20510

Senator WEICKER. There will be further questions submitted for the record. Otherwise, I have no questions of the witnesses at this time and the committee will stand in adjournment.

[Whereupon, at 11:10 a.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

STATEMENT OF

HONORABLE JUAN LUIS, GOVERNOR

UNITED STATES VIRGIN ISLANDS

BEFORE THE

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

U. S. SENATE ENERGY AND NATURAL RESOURCES COMMITTEE

JULY 26. 1984

Mr. Chairman, honored members of this subcommittee, thank you for the opportunity to comment on provisions of the 1984 Omnibus Territories Bill that will affect the Virgin Islands.

When I appeared before the House Interior and Insular Affairs Subcommittee in February and May, I asked for that committee's help in obtaining an appropriation for $5 million for economic development of the Virgin Islands, an amount which was authorized by Congress six years ago, but which was never funded. I explained that the Territory had plans to use this amount as start-up capital for the Virgin Islands Government Development Bank which is designed to make funding available to the private sector for economic development. Recently I have been working with members of the Virgin Islands Legislature to propose local legislation which would expand the authority of the Virgin Islands Development Bank and revamp the membership of its Board of Directors to better accommodate our plans and needs. We are also exploring various alternative means of capitalizing the bank.

The original version of H.R. 5561 would have established and authorized funding for a Territorial Economic Development Fund which is designed to serve a purpose similar to that of the Virgin Islands Development Bank. While the proposed authorized funding level is much too low to accommodate the economic development needs of even one territory, the Fund would have at least been a good beginning in meeting these needs. Unfortunately, the House version of H.R. 5561 no longer contains an authorization for the fund.

Therefore, Mr. Chairman and members of this subcommittee, I urge you to amend the bill to either restore the Territorial Economic Development Fund provision or to reauthorize the $5 million for economic development for the Virgin Islands.

Another key provision in the bill would, at long last, authorize the Virgin Islands to issue tax-free Industrial Development Bonds, again to accommodate private sector economic development activities in the Virgin Islands. Nearly every other U.S. jurisdiction, including the Territory of Guam, already has this authority which could become a very useful tool for the Virgin Islands to promote expansion of existing businesses and to attract new industry. The recently enacted tax bill does provide a form of Industrial Development Bond Authorization for the Virgin Islands, but it leaves their tax-free status in doubt. Also, it unreasonably restricts the Virgin Islands to approximately $15 million per year in IDB's. I strongly support the alternative provisions in this bill as well as an increase in the territorial IDB ceiling and I urge that it be adopted by this Committee and the entire Congress.

The same section contains an important amendment to the Territory's revenue bonding authority to permit private, as well as public, sale of bonds. The Territory's financial advisor and bond counsel have informed us that this amendment would bring the Virgin Islands bond authority in line with that which typically exists in other jurisdictions, and would reduce the cost of such bond issues.

H.R. 5561 would also authorize a $10 million appropriation to fund improvements for the St. Croix airport, including extension of the runway to 10,000 feet. I have previously testified before this committee regarding the need for extension of the St. Croix runway in order to bolster that island's tourism, to permit St. Croix to serve as an air gateway to the Eastern Caribbean, and to help meet the strategic need of the United States in this politically sensitive region. The lengthened runway would permit non-stop flights from St. Croix to South America, Europe, and the U.S. West Coast. In light of the federal government's renewed commitment to the Caribbean, recently expressed in terms of the Caribbbean Basin Initiative and the plans to use U.S. funds to complete the airport expansion in Grenada, the need to improve St. Croix's airport becomes even more pressing. Therefore, I appreciate the inclusion in this bill of a funding authorization for the project. I hope that this authorization will be funded by an appropriation in the near future so that this very important project may move forward into the construction stage at an early date.

H.R. 5561 also would exempt Territories from the first $200,000 of any required local match for any federal grants. I strongly support this provision which recognizes the unique position of the Territories in the federal grants process. Territorial needs are often greater than those of states, yet their resources to provide a local match for federal grants are often more limited. This provision would

help alleviate this situation and it is thus deserving of this Committee's support.

Recently I wrote to Virgin Islands Delegate Ron deLugo requesting his assistance in obtaining a transfer of ownership of Government House in St. Croix from the federal government to the Territorial Government. This historic Christiansted building should become a symbol of increased local governmental autonomy in the Virgin Islands. A transfer of this building itself, which is already maintained by the local government, would be an important indication of the federal government's continued commitment to this goal and it would put the St. Croix Government House on a par with the Government House in St. Thomas which for many years has been owned by the Territorial Government. I am pleased that H.R. 5561 now contains a provision to effectuate this transfer and I urge this Committee's support.

The bill also contains a provision to clarify the title of certain property in St. Thomas which was long believed to be owned by the Lutheran Church. Recently it has been discovered that the territorial or federal government, through a technicality, may have some claim to this property. I support Congressman deLugo's effort to clear the legal cloud to the title of this property by clarifying that it belongs to the Lutheran Church and by disclaiming any government ownership interest.

Finally, I understand that this committee is giving consideration to adding provisions to this bill to reform the Virgin Islands judicial system. As you know Mr. Chairman, I have commented numerous times over the past three years on various versions of these judicial reform provisions and I generally support them with a few amendments. I would ask that in its consideration of these provisions the committee review my previous comments, particularly the most recent ones, submitted to this committee at a hearing last October.

Thank you for this opportunity to present my views to the committee and for your continuing efforts on behalf of the Virgin Islands and the territories.

TESTIMONY

OF

BENJAMIN J.F. CRUZ
DIRECTOR
WASHINGTON LIAISON OFFICE
OFFICE OF THE GOVERNOR OF GUAM

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

U.S. SENATE

July 26, 1984

Mr. Chairman, Governor Bordallo has directed me to express his sincerest "Si Yu'us Maase" to you and this Committee for your sincere concern and commitment to the wellbeing of all the People in the U.S. territories, as evidenced by the expedited scheduling of this hearing in the hopes of getting this bill passed during this shortened Congressional year.

Governor Bordallo and the People of Guam sincerely hope that this esteemed Committee will recommend the passage of H.R. 5561 by the U.S. Senate at the earliest possible date.

H.R. 5561 contains provisions that address many of Guam's most urgent needs.

Congressman Won Pat and his Subcommittee on Insular Affairs should be commended for the amended version of H.R. 5561 which corrected the problems in the original bill.

The intent of Section 101 to expand the types of private development projects that can receive technical assistance grants is a brilliant and progressive evolution of technical assistance programs. Governor Bordallo has appeared before this Committee and numerous Congressional committees expressing Guam's desire to develop into a self-sustaining community, but requesting tools of assistance from Congress. This expanded technical assistance program is one such tool and we applaud its intent and inclusion and only hope that the authorization could be larger and the appropriation forthcoming.

I cannot overemphasize the importance of Section 203 to Guam's current economic wellbeing, our aspirations for future economic development, as well as alleviating a current burden on

the backs of the electrical consumers of Guam.

Reducing the interest rate to 7% and giving the Guam Power Authority (GPA) an additional 14 years to repay the loan significantly enhance GPA's ability to meet its financial obligations without imposing another rate increase on top of the 21% increase approved earlier this year.

Reasonable electricity rates are important to our future economic development because no power intensive industry or even high air conditioning consumptive service industry can survive or be attracted to an area with prohibitively high electricity rates. The industries in place now are finding it hard to make ends meet, much less make a profit as a result of this 20% + power rate increase.

The Governor and the People of Guam join me in respectfully urging the approval of Section 203.

Section 301 makes significant strides toward enhancing the development of the fishing industry in and around Guam. The amendment to allow foreign hulls less 200 gross tons to ply the waters in the territories will allow for the development of a locally owned fishing industry rather than limit it to one monopolized by big business concerns that can afford U.S. hulls. We believe that the amendments in Section 301 are positive and hope for your concurrence and support.

The authorization in Section 401 is urgently needed if Guam is to avert a recurrence of the long periodic loss of water to the southern part of the island. This water loss is due to a substandard water transmission system. The $9.6 million

authorization will go a long way towards addressing our major needs. The Governor has directed me to point out that though we are most appreciative of any support, I was to remind the Committee that the Governor's Fiscal Year 1986 request was for $16.3 million. We hope that you will authorize and appropriate as much as possible.

The Government of Guam supports the intent of all the technical amendments and reauthorizations contained in Sections 601 and 602. All the programs referred to in those sections are important and contribute to Guam's economic development. The $200,000 matching waiver is important in light of our current dire fiscal condition.

We have no position either for or against the amendment in Section 603. We would prefer that the U.S. District Court be established along the exact same lines as the U.S. District Court in Connecticut or Idaho. There is no reason why the U.S. District Courts in the territories should not be full fledged District Courts with the same tenure and powers. The issues of tenure and payments to judges pales in comparison to the diversity cases that have been left unresolved because of the unsettled status of the Judicial Branch.

The Governor has asked me to inquire about the status of S. 1366 which would have created a separate but equal third branch of government - the Judicial Branch. We hope that this Committee would consider including the provisions of S. 1366 as additional sections to this bill since it does concern the territories.

In closing, please allow me to bring up a matter of great importance - that the Governor and the Government of Guam hope this

Committee would address in the near future, if not in this bill. I am referring to an amendment to Section 818(b)(2) of P.L. 96-418 which restricts the use of funds received by the lease of Cabras Island property. The Port Authority of Guam has plans to develop the Cabras land returned to the Government of Guam pursuant to P.L. 96-418.

In order to float the bonds needed for these capital projects, the Port must have a secure source of funding.

Pledging funds received from the lease of Cabras land would be the perfect source. Unfortunately, the law currently requires the reversion of all lease money to the federal coffers.

The original restrictions were intended to prevent unjust enrichment by certain individuals who have since left the scene. If the Government of Guam and the Port Authority of Guam are ever going to realize the benefits of the return of this land, then they must be allowed to use it or its derivative revenues for developmental purposes. We trust that this Committee's legal counsel could prepare a simple amendment to effect the intent of the transfer and protect against abuses while still encouraging and enhancing the economic development plans.

I thank you for providing the Washington Liaison Office of the Governor of Guam this opportunity to submit testimony and comments on this Omnibus Territories Bill for 1985.

The Washington Liaison Office is prepared to answer any questions this Committee may wish to point.